



United States  
Department of Justice



United States  
Federal Trade Commission

May 22, 2006

MEMORANDUM FOR ALL IDENTITY THEFT TASK FORCE MEMBERS

FROM: THE ATTORNEY GENERAL *ary*

THE CHAIRMAN, FEDERAL TRADE COMMISSION *JPM*

SUBJECT: Implementation of Identity Theft Task Force

On May 10, 2006, the President signed an Executive Order for the purpose of strengthening federal efforts to protect against identity theft. In that Order, the President directed that an Identity Theft Task Force ("Task Force") be established and chaired by the Attorney General of the United States and the Chairman of the Federal Trade Commission. This memorandum sets forth the structure of the Task Force. It is intended only to be a general description of the Task Force, and we encourage members to provide their views and suggestions as we move forward with the implementation of this plan.

The President's Executive Order on Identity Theft establishes this Task Force in the Executive Branch. The purpose of the Task Force is to use federal resources effectively to deter, prevent, detect, investigate, proceed against, and prosecute unlawful use by persons of the identifying information of other persons. The goals of the Task Force include:

- (1) increased aggressive law enforcement actions designed to prevent, investigate, and prosecute identity theft crimes, recover the proceeds of such crimes, and ensure just and effective punishment of those who perpetrate identity theft;
- (2) improved public outreach by the Federal Government to better (a) educate the public about identity theft and protective measures against identity theft, and (b) address how the private sector can take appropriate steps to protect personal data and to educate the public about identity theft; and
- (3) increased safeguards that federal departments, agencies, and instrumentalities can implement to better secure government-held personal data.

Because the President's Task Force is intended as the sole government-wide working group on identity theft, all existing interagency working groups on identity theft (e.g., the Identity Theft Subcommittee of the Attorney General's Council on White Collar Crime and the Interagency Identity Theft Working Group) will be subsumed into the Task Force.

**Task Force Membership**

The Executive Order provides that the Attorney General (AG) serve as Task Force Chairman and that the Chairman of the Federal Trade Commission serve as Task Force Co-Chair. Pursuant to the Executive Order, the Task Force membership includes:

- the Attorney General (Chair)
- the Chairman of the Federal Trade Commission (Co-Chair)
- the Secretary of the Treasury
- the Secretary of Commerce
- the Secretary of Health and Human Services
- the Secretary of Veterans Affairs
- the Secretary of Homeland Security
- the Director of the Office of Management and Budget
- the Commissioner of Social Security

Other officers of the United States are designated Task Force members, including:

- the Chairman of the Board of Governors of the Federal Reserve System
- the Comptroller of the Currency
- the Director of the Office of Thrift Supervision
- the Chairman of the National Credit Union Administration
- the Postmaster General
- other officers of the United States as the Attorney General may designate from time to time with the concurrence of the respective heads of the departments and agencies concerned.

The Executive Order further provides that members of the Task Force will obtain information and advice from representatives of state, local, and tribal governments, private sector entities and individuals in a manner that seeks their individual advice and does not involve collective judgment or consensus advice and deliberation, and without giving any such person a vote or veto over the activities or advice of the Task Force. These individuals and entities cannot be members of the Task Force.

**Task Force Responsibilities**

The Task Force is given very specific responsibilities under the Executive Order, including providing the President with a coordinated strategic plan within 180 days of the issuance of the Order. The Order directs that the strategic plan must include methods to further improve the effectiveness and efficiency of the Federal Government's activities in the area of identity theft awareness, prevention, detection, and prosecution; an approach to implement these improvements; advice from representatives of state, local, and tribal governments and private sector entities; an analysis as to how to avoid duplication with existing federal, state, or local identity theft initiatives; and advice on the efficiency of existing policies. The Task Force must also submit periodic written reports to the President with recommendations for administrative or legislative action.

**Implementation Plan**

In order to discharge its responsibilities, the Task Force must have a workable structure to maximize interagency cooperation. The Task Force will have periodic meetings chaired by the Attorney General. To assist with the day-to-day responsibilities of the Task Force, and to head a working group of senior agency representatives, the Attorney General will designate a senior staff member from the Department as Executive Director of the Task Force. The Chairman of the Federal Trade Commission will designate a senior staff member from the Federal Trade Commission to serve as Deputy Executive Director. The Executive Director and Deputy Executive Director will coordinate the work of the subgroups to ensure that the directives of the Executive Order are met by established deadlines.

The Executive Director will be given the authority to designate his or her own staff members to coordinate the development and execution of the strategic plan. The Deputy Executive Director will assist the Executive Director in that coordination. The Executive Director and the Deputy Executive Director will draw on one or more Department components to assist in this process, *e.g.*, the Criminal Division, United States Attorneys' Offices, the Office of Legal Policy, the Office of Justice Programs, or others, as well as the staff at the Federal Trade Commission. Under the direction of the Executive Director, these individuals will be responsible for compiling all the reports from the subgroups described below and making final revisions to the document for submission to the Task Force, and then to President.

Pursuant to the Executive Order, the Task Force will establish four working groups or subgroups. The number of subgroups may be expanded or reduced as necessary:

- Subgroup on Criminal Law Enforcement (Co-Chairs: Assistant Attorney General of the Criminal Division and Chair of the Attorney General's Advisory Committee ("AGAC") White Collar Crime Subcommittee)<sup>1</sup>
- Subgroup on Education and Outreach (Chair: Federal Trade Commission)
- Subgroup on Data Security (Co-Chairs: Social Security Administration, Department of Homeland Security, Federal Trade Commission, United States Department of Treasury)
- Subgroup on Legislation and Administrative Action (Chair: Assistant Attorney General of the Office of Legal Policy)

1. *Subgroup on Criminal Law Enforcement*: The largest subgroup of the Task Force is referenced in subsection 2(c) of the Executive Order and will consist of representatives from the members of the Task Force who are essential to criminal law enforcement efforts. This subgroup will examine and address operational issues related to law enforcement investigations and prosecutions, and make recommendations to the Task Force regarding structural elements and agency policy to further enhance criminal investigations and prosecutions related to identity theft. The subgroup will also help expand upon existing interagency communication and coordination (such as the Katrina Fraud Theft Task Force), by sharing appropriate information with all interested agencies in furthering investigation and prosecution of identity theft. It can coordinate data-mining from various databases, identify targets, refer complaints to the appropriate district(s), referee deconfliction issues, and refer multi-district and international matters to the appropriate entities. The subgroup will also seek appropriate participation from certain public and private sector associations with a demonstrated interest and expertise in identity matters, such as active participants in the Identity Theft Subcommittee currently operating out of the Fraud Section of the Criminal Division (e.g., International Association of Chiefs of Police, American Association of Motor Vehicle Administrators, National Association of Attorneys General, National District Attorneys Association, and the National Association for Public Health Statistics and Information Systems).

Membership in this subgroup will include: the Assistant Attorney General of the Criminal Division and the Chair of the AGAC's White Collar Crime Subcommittee (Co-Chairs), selected United States Attorneys,<sup>2</sup> and agency representatives from the Federal Trade Commission, Federal Bureau of Investigation, Secret Service, Postal Inspection Service, Homeland Security,

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<sup>1</sup> The AGAC, created in 1973, advises the Attorney General on law enforcement issues and gives United States Attorneys a key voice in Department policy.

<sup>2</sup> This subgroup will have the benefit of Department of Justice field office insight as well as that of the Criminal Division. Because a balance must be achieved between investigative and prosecutive interests, the number of United States Attorneys selected to participate will be limited. In addition, the selection will ensure balanced insight from United States Attorneys with different office sizes and from districts both urban and rural in character.

Social Security Administration, Office of Inspector General, and the Department of Treasury. Specific components of the Criminal Division with identity theft expertise should also be included in subgroup meetings: the Fraud Section of the Criminal Division, the Computer Crime and Intellectual Property Section of the Criminal Division, as well as a representative from the Executive Office for United States Attorneys who monitors identity theft matters.

2. *Subgroup on Education and Outreach:* Also referenced in subsections 2(c) and 3(c) of the Executive Order, this subgroup will identify existing public sector and private sector initiatives to educate and to warn the public about identity theft and how to reduce the risks of identity theft, to facilitate coordination among public sector and private sector entities on existing or potential initiatives, and to develop new proposals for education and prevention measures. The subgroup may also invite participants, as necessary, from public and private sector associations that may offer information on new identity theft schemes and their expertise on proactive measures the public can take to avoid victimization. Membership in this subgroup will include: the designee for the Federal Trade Commission (Chair), one United States Attorney selected by the Chair of the AGAC, agency representatives from the Social Security Administration, Veterans Affairs and the Departments of Treasury, Commerce, and Health and Human Services, and possibly other interested members such as appropriate Criminal Division components.

3. *Subgroup on Data Security:* This subgroup will examine current issues and problems associated with maintaining data security in public sector and private sector entities that routinely handle large volumes of personal or financial data that are potential targets for identity theft crime. It also will ensure that any efforts or recommendations are consistent with the E-Government Act of 2002. The subgroup will establish: (a) a working group on the security of public sector data, co-chaired by the Department of Homeland Security and the Social Security Administration, and (b) a working group on private sector data, co-chaired by the Federal Trade Commission and Department of Treasury. Membership in this subgroup will include: designees for the Social Security Administration (Co-Chair), Department of Homeland Security (Co-Chair), Federal Trade Commission (Co-Chair), Department of Treasury (Co-Chair) and representatives from the Federal Bureau of Investigation, the Computer Crime and Intellectual Property Section of the Criminal Division, the Fraud Section of the Criminal Division, Office of Management and Budget, Commerce Department, Department of Health and Human Services, Veterans Affairs, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Federal Reserve Board, Office of Thrift Supervision, National Credit Union Administration and other interested federal agencies as designated by the Attorney General, e.g., Internal Revenue Service, Small Business Administration, Housing and Urban Development.

4. *Subgroup on Legislation and Administrative Action:* Pursuant to subsections 1(c) and 3(e) of the Executive Order, this subgroup will suggest changes in existing law, rules, regulation, and policy to improve the investigation, prosecution, and prevention of identity theft. It is anticipated that this subgroup will meet less regularly than the first three subgroups, perhaps on a semi-annual basis after collecting information and recommendations from other subgroups

throughout the year. Membership in this subgroup will include: the Assistant Attorney General of the Office of Legal Policy (Chair) and any interested member or participating federal agency or other Department component.

The list of participating agencies and other entities for each subgroup is not intended to be restrictive; broader representation on the subgroups may be invited by subgroup chairs or the Executive Director.

### **Implementation Timetable**

As mentioned above, subsections 3(a)-(e) of the Executive Order direct the Task Force to submit to the President a coordinated strategic plan to implement the policy set forth in subsection 1 within 180 days from the date of the Order. The plan must include the following components: (1) methods to further improve the effectiveness and efficiency of the Federal Government's activities in the area of identity theft awareness, prevention, detection, and prosecution (subsection 3(a)); (2) a coordinated approach to implementation of the policy set forth in the Order (subsection 3(b)); (3) information and advice relating to the policy from representatives of State, local, and tribal governments, private sector entities, and the public (subsection 3(c)); (4) a coordinated plan between federal, state, and local authorities to address this issue and avoid any unnecessary duplication of effort (subsection 3(d)); and (5) advice on the establishment, execution, and efficiency of existing policies. This would include written reports from time to time to the President with recommendations for administrative action or legislative proposals (subsection 3(e)).

In light of the Order's requirements, the responsibility for drafting the strategic plan will be divided by subgroup: (1) The subgroup on Criminal Law Enforcement will coordinate the drafting of that portion of the plan related to subsections (3)(a) and (3)(b) of the Executive Order; (2) The subgroup on Education and Outreach will coordinate the drafting of the plan related to subsections 3(c) and 3(d); (3) The subgroup on Data Security will provide information and advice to other subgroups in connection with the drafting of subsections 3(a)-(d); and (4) The subgroup on Legislation and Administrative Action will coordinate the drafting of the plan related to subsection 3(e).<sup>3</sup> Wherever possible, legislative and administrative action recommendations and data security recommendations should also be integrated into the drafts being prepared by the Criminal Law Enforcement and Education and Outreach Subgroups.

A timetable for putting the requirements of the Executive Order into effect will include the following:

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<sup>3</sup> Although the subgroup on Data Security will play a vital role in the Task Force, data security concerns are not specifically referenced in the components of the strategic plan in subsection 3 of the Executive Order, but data security concerns relate to most of the subject areas identified.

- Day 1: Executive Order is issued by the President.
  
- D + 5: Each listed Task Force member department and agency is contacted and asked to designate particular officials to serve as the principal Task Force representative for that department or agency. The Chairman and Co-Chairman also make a preliminary determination as to whether they should designate any other officer of the United States to the Task Force.
  
- D + 20: Task Force meets and outlines an initial work plan, establishes subgroups, and identifies agency representatives not specifically assigned who are interested in subgroup membership. Primary assignment to one subgroup would not preclude membership in another subgroup.
  
- D + 30: Task Force subgroups meet, coordinate with other subgroups, and organize assignments in each subgroup to develop information and to make recommendations for the strategic plan. The subgroups will report their progress to the Executive Director within 30 days of their meeting.
  
- D + 60: Within each subgroup, chairs and members meet and develop detailed work plans for their components of the strategic plan. Subgroup chairs and members begin outreach to other agencies and organizations to gather information for their sections of strategic plan. Internal drafting deadlines are established within each subgroup, and an editor is chosen to compile the assigned sections of the plan. Subgroup chairs should receive drafts of their sections of the strategic plan from their editors by Day 90.
  
- D + 100: Subgroups circulate their draft sections of the strategic plan to the Chairman, Co-Chairman, Executive Director, Executive Deputy Director, and other subgroups for review. Editors assigned by each subgroup will act as points-of-contact for comments and suggested revisions. By Day 140, the final draft of the plan will be compiled by the Executive Director and submitted to the Task Force for consideration.
  
- D + 140: The final draft of the plan is circulated to the Chairman, Co-Chairman, and members of the Task Force for consideration.
  
- D + 160: Task Force reviews and meets to adopt the final draft of the strategic plan after informal consultation with existing law enforcement working groups outside the Task

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Force's structure, where appropriate. The Task Force establishes a deadline for submission of the strategic plan to the President.

- Day 180: Task Force presents the strategic plan to the President and continues its activities after review and response from the President.